

REMARKS

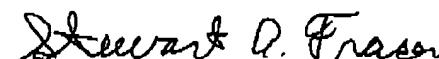
Claims 35-39 stand rejected under 35 U.S.C. 112, first paragraph and second paragraph. Claims 35-39 have been canceled.

Claims 20-22, 25-39 stand rejected under 35 U.S.C. 102(b) or 102(e) as being anticipated by Urry, US 6,022,639. Claim 20 has been amended to an electrochemical cell having uniformly shaped zinc particles having smooth surface finishes rather than uniformly shaped zinc particles having consistent surface finishes. Because the cited reference does not disclose uniformly shaped zinc particles having smooth surface finishes, the reference cannot anticipate claim 20 as currently amended. Consequently, withdrawal of the 102 rejection over Urry is warranted. Claim 21 was canceled. Claims 22-34 depend directly or indirectly from claim 20. As indicated above, claims 35-39 have been canceled.

As was discussed with Examiner Dove during a telephone interview on August 17th, the cited reference and the claimed invention were, at the time the claimed invention was made, owned by Eveready Battery Company or the inventors were obligated to assign their rights to Eveready Battery Company. Consequently, US 6,022,639 cannot be relied upon to support a rejection under 35 U.S.C. 103.

New claims 40 and 41 correspond to original claims 23 and 24 which the examiner had indicated would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Because independent claim 40 includes the limitations in original claims 20, 22 and 23, claim 40 is believed to be in condition for allowance. Claim 41 depends from claim 40 and corresponds directly to claim 24.

Claims 20, 22-34, 40 and 41 remain in the application and allowance of the same is requested.



Stewart A. Fraser
Reg. No. 33,882
Eveready Battery Company
25225 Detroit Road
Westlake, OH 44145
(440) 835-7632

August 23, 2005